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October 20, 2017

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Via ECF Filing

Honorable Michael A. Shipp, U.S.D.J.
U.S. District Court
Clarkson S. Fisher Building
and U.S. Courthouse
402 East State Street
Trenton, NJ 08608

Re: Johnson v. City of Long Branch
Our File Number: EJM / 51150.5-00017
Docket Number: 3:15-cv-01081-MAS-TJB

Dear Judge Shipp:

Kindly accept this correspondence in response to EEOC's October 16, 2017 submission and its proposed order for implementing the mandate issued by the Third Circuit. EEOC proposes that in vacating and remanding Your Honor's Order on March 21, 2016, the Court consider its Motion to Enforce Subpoena be in the "first instance." To the contrary, we request that the Court treat Magistrate Judge Bongiovanni's Order as a "report and recommendation." Judge Bongiovanni's Order is a valid decision based upon on substantive grounds. It is only on procedural grounds that the Order is being vacated and remanded. In addition, EEOC will not be prejudiced by the Order being considered as a "report and recommendation" as EEOC will have sufficient opportunity to file its objections to the Order within 14 days after entry of an order by the Court.

Should Your Honor decide that EEOC's Motion to Enforce be reviewed in the "first instance," we request that the submission dates proposed by EEOC be revised as follows:

1. The EEOC shall file its initial supplemental submission on or before November 22, 2017;

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2. Respondent, City of Long Branch, shall file its opposition no later than December 11, 2017;
3. The EEOC shall file its Reply no later than December 18, 2017.

We request the above deadlines allow the Respondent an additional week to submit its Opposition due to the Thanksgiving Holidays. EEOC's proposed deadline does not allow sufficient time for the Respondent's Opposition, nor does it take into consideration the Thanksgiving Holidays. Thank you for Your Honor's kind courtesy and consideration to the foregoing.

Respectfully submitted,

MARGOLIS EDELSTEIN

By: 
EMERY J. MISHKY

EJM/nao

cc: Rosemary DiSavino, Esq. (via ECF Filing)

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